

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Cederick Wise,)	Case No.: 6:21-cv-02590-JD-KFM
)	
Plaintiff,)	
)	
vs.)	
)	OPINION & ORDER
Brian Kendall, Chree Shear, Francis)	
Blackman, John Doe One,)	
)	
Defendants. ¹)	
)	

This matter is before the Court with the Report and Recommendation of United States Magistrate Kevin F. McDonald (“Report and Recommendation”), made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 of the District of South Carolina.² Cederick Wise (“Wise” or “Plaintiff”), proceeding *pro se* and *in forma pauperis*, brought this action alleging violations of his constitutional rights pursuant to 42 U.S.C. § 1983. (DE 1.)

Plaintiff’s Complaint was filed on August 12, 2021. (DE 1.) The Magistrate issued an Order on November 10, 2021, informing Plaintiff that his Complaint was subject to summary dismissal because it failed to state a claim upon which relief may be granted, and that he could attempt to cure the defects identified in his Complaint by filing an amended complaint within 14 days. (DE 20.) Plaintiff was informed that if he failed to file an amended complaint or otherwise cure the deficiencies outlined in the Order, his case could be dismissed. (DE 20, pp. 8-9.) Plaintiff

¹ This caption has been updated to reflect the parties named in Plaintiff’s Amended Complaint. (DE 22.)

² The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

filed an Amended Complaint on November 29, 2021. (DE 22.) The Report and Recommendation was issued on December 21, 2021, recommending that Plaintiff's case be dismissed because the Amended Complaint fails to state a claim upon which relief may be granted. (DE 26.)

Plaintiff filed no objections to the Report and Recommendation. In the absence of objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). The Court must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Upon review of the Report and Recommendation and the record in this case, the Court adopts the Report and Recommendation and incorporates it herein by reference.

It is, therefore, **ORDERED** that this action is dismissed with prejudice and without issuance and service of process. It is further ordered that this action be designated as a "strike" pursuant to 28 U.S.C. § 1915(g).

IT IS SO ORDERED.

s/Joseph Dawson, III
Joseph Dawson, III
United States District Judge

January 31, 2022
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.